

AGREEMENT
between
SALT LAKE COUNTY
and

for purpose of
Accessing Oblique Aerial Photography Imaging

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THIS AGREEMENT is made and entered into this _____ day of _____, 2008, by and between SALT LAKE COUNTY, a body corporate and politic of the State of Utah, ("COUNTY"), and West Valley City, municipal corporation and political subdivision of the State of Utah ("SUBDIVISION").

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions contained herein, and the payment of the sums of money as specified, the Parties agree as follows:

1. SCOPE OF SERVICES:

COUNTY agrees to furnish the SUBDIVISION with oblique aerial photography pursuant to COUNTY's contract with Pictometry International Corp. ("VENDOR"), and as set forth in this Agreement. SUBDIVISION agrees to use said product only as permitted by this Agreement.

2. CONSIDERATION:

The COUNTY has acquired oblique photography images from VENDOR for use as outlined in this Agreement. The COUNTY has negotiated provisions that will allow

SUBDIVISIONS within Salt Lake County boundaries to use the images as outlined in the Agreement.

SUBDIVISION may use this program for the first two years at no cost. Each subsequent year, a fee based on the number of parcels within the SUBDIVISION's jurisdiction or as negotiated with the elected County Assessor, will be assessed.

3. EFFECTIVE DATE/TERM:

This Agreement shall be effective upon execution by both Parties and shall continue for a period of two (2) years from the date of execution ("Term"), with the COUNTY and SUBDIVISION reserving the right to terminate without penalty at any time. This Agreement may be renewed, at the end of the Term, for a one (1) year period upon the terms and conditions agreed to by the Parties ("Additional Terms").

4. OWNERSHIP:

The Parties acknowledge and agree that COUNTY shall own the imagery and maintain a perpetual software license. In addition, VENDOR retains the right to resell the imagery.

5. LICENSED PRODUCTS:

SUBDIVISION acknowledges and agrees that VENDOR shall have and retain sole and exclusive ownership and all right, title and interest in and to any Licensed Software, Licensed Metadata, Licensed DEM and Licensed Documentation provided under this Agreement, and SUBDIVISION will never assert or claim any interest in the Licensed Products. All indications of VENDOR ownership (logo, trademark, etc.) shall remain on all Licensed Products.

SUBDIVISION agrees that it will not use any VENDOR trademark, trade name, logo, or designation in connection with any product or service.

6. ELECTRONIC PUBLISHING:

SUBDIVISION is prohibited from publishing in any way (including by making available on the Internet or World Wide Web or any other general access electronic network) any Licensed Product. This paragraph does not prevent the publishing of Licensed Products on COUNTY controlled, limited access networks.

7. CONFIDENTIALITY OF LICENSED PRODUCTS:

SUBDIVISION agrees the Licensed Products are confidential and contain substantial trade secrets of VENDOR. SUBDIVISION agrees that it will not disclose, provide a copy of, or disseminate the Licensed Products or any part thereof to any person who does not need to obtain access thereto consistent with COUNTY's rights and obligations under this Agreement.

SUBDIVISION understands Pictometry does not disclose source code and SUBDIVISION shall not "unlock" or "reverse engineer" any part of the Licensed Software.

8. SYSTEM INSTALLATION:

COUNTY may authorize any department, sub-unit or political subdivision located within Salt Lake County or Utah State agencies to be "SUBDIVISIONS." SUBDIVISION may have the Licensed Products installed on their computers/servers and will execute the Licensed Software similar to purposes used by COUNTY. SUBDIVISION agrees that it will comply with all obligations of COUNTY with respect to the use and distribution of the Licensed Products. SUBDIVISIONS include county offices or departments, cities, towns, school districts and other political subdivisions of the State located within the COUNTY.

9. GRANT OF LICENSE:

COUNTY hereby accepts a nonexclusive, nontransferable, limited license (the "License") for the following:

Installation. COUNTY shall install the Licensed Products on workstations under the control of and used by the COUNTY and/or an authorized SUBDIVISION. SUBDIVISION agrees that none of the Licensed Products shall be accessed except through such designated workstations.

Uses. SUBDIVISION agrees to use the Licensed Products in the conduct of the public business of the authorized SUBDIVISION in the following activities: For internal business and for persons doing business with SUBDIVISION. Under the supervision of Authorized Users, COUNTY may allow representatives of persons doing or proposing to do business with the COUNTY (“Project Participants”) or an Authorized SUBDIVISION on COUNTY Projects (defined below) to use and execute the Licensed Software at the COUNTY or authorized SUBDIVISIONS’ facilities only. For these purposes, “COUNTY Projects” shall mean any plan or effort, tangible or intangible, such as construction, real estate disposition, facilities management, environmental studies or public information brochures or notices used by an authorized SUBDIVISION in pursuit of its public responsibilities.

Limitations on License. SUBDIVISION agrees that it will not authorize access to the Licensed Products except for SUBDIVISION’s workstations, tablets or laptops.

SUBDIVISION may not copy, download, store, publish, transmit, transfer, sell, or otherwise install or use the Licensed Products in any form or by any means, except as expressly permitted by the COUNTY’s Agreement or with VENDOR’s written permission obtained through COUNTY. Authorized SUBDIVISION acknowledges that COUNTY, through this written and signed Agreement, has delivered to all users of Licensed Products by SUBDIVISION, all such disclaimers and other information from Pictometry to assist those

persons in understanding the limitations on the accuracy of the information developed through the Licensed Products.

Obligations of SUBDIVISION. COUNTY will notify VENDOR, in writing of any claim or proceeding involving any of the Licensed Products within ten (10) days after COUNTY learns of the claim or proceeding and report promptly to VENDOR all claimed or suspected defects in any Licensed Product. Authorized SUBDIVISION will promptly notify COUNTY in writing, within ten (10) days, of any claimed or suspected defects in any Licensed Product and the COUNTY will investigate all claims, resolve whenever possible and if necessary, report promptly to Pictometry.

10. GOVERNMENTAL IMMUNITY:

COUNTY is a body corporate and politic of the State of Utah, subject to the Utah Governmental Immunity Act (“Act”), Utah Code Ann. § 63-30d-101, *et seq.* (1953, as amended). Both Parties agree that COUNTY shall only be liable within the parameters of the Governmental Immunity Act. Nothing contained in this Agreement shall be construed in any way to modify the limits of liability set forth in that Act or the basis for liability as established in the Act.

COUNTY represents that it is self-insured pursuant to the provisions of § 63-30d-801 of the Utah Code.

11. AGENCY:

No agent, employee or servant of SUBDIVISION is or shall be deemed to be an employee, agent or servant of the COUNTY. None of the benefits provided by COUNTY to its employees, including but not limited to worker’s compensation insurance, health insurance and unemployment insurance, are available to the employees, agents, or servants of SUBDIVISION.

SUBDIVISION is solely and entirely responsible for its acts and for the acts of its agents, employees, servants and/or subcontractors during the performance of this Agreement.

12. GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT:

SUBDIVISION acknowledges that COUNTY is a governmental entity subject to the Utah Government Records Access Management Act (“GRAMA”), Utah Code Ann. § 63-2-101, *et seq.* As a result, COUNTY is required to disclose certain information and materials to the public, upon request. SUBDIVISION agrees to timely refer all requests for documents, materials and data in its possession relating to this Agreement and its performance to the COUNTY Representative for response by the COUNTY.

13. NOTICES:

All notices to be given under this Agreement shall be made in writing and shall be deemed given upon personal delivery, upon the next business day immediately following the day sent if sent by overnight express carrier, or upon the third business day following the day sent if sent postage prepaid by certified or registered mail, return receipt requested, to the Parties at the following addresses (or to such other address or addresses as shall be specified in any notice given):

COUNTY: Tim Noyce
Salt Lake County Assessor’s Office
2001 South State Street, N-2300
Salt Lake City, Utah 84190

SUBDIVISION: City Manager
West Valley City
3600 South Constitution Blvd
West Valley City, Utah 84119

14. LAWS OF UTAH:

It is understood and agreed by the Parties hereto that this Agreement shall be governed by the laws of the State of Utah, both as to interpretation and performance.

All actions, including but not limited to court proceedings, administrative proceedings, arbitration and mediation proceedings, shall be commenced, maintained, adjudicated and resolved within the jurisdiction of the State of Utah.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year recited above.

SALT LAKE COUNTY

By: _____
Mayor Peter Corroon or Designee

STATE OF UTAH)
 : ss.
County of Salt Lake)

On the _____ day of _____, 2008, personally appeared before me _____, who being by me duly sworn did say, that s/he is the _____ of Salt Lake County, Office of Mayor, and that said instrument was signed in behalf of Salt Lake County, by authority of law.

NOTARY PUBLIC

SUBDIVISION:

Mayor

ATTEST:

City Recorder